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January 9, 2007

Thomas J. Navin
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Status Update on SAMHSA Request for Toll-free Number Transfer

Dear Mr. Navin:

Patriot Communications, through its counsel, has stated to the Federal Communications Commission that it will not terminate service to the Kristin Brooks Hope Center ("KBHC") toll-free numbers on January 9, 2007, as originally threatened. Opposition of Patriot Communications LLC to Kristin Brooks Hope Center's Petition for Cease and Desist Order and For Sanctions, *In the Matter of Kristin Brooks Hope Center and 1-800-SUICIDE*, CC Docket No. 95-155 (filed Jan. 3, 2007) at 1. Further, McLeodUSA has stated that it will honor a KBHC request to release the numbers to another Resp Org. Opposition of McLeodUSA Incorporated to Petition for Cease and Desist Order and For Sanctions, *In the Matter of Kristin Brooks Hope Center and 1-800-SUICIDE*, CC Docket No. 95-155 (filed Jan. 3, 2007) at 4-5.

This letter is to inform the Commission that pursuant to these statements, on Friday, January 5, 2007, six of the KBHC toll-free numbers were released by McLeodUSA and moved to the Resp Org of KBHC's choosing. The attached Resp Org transfer form was submitted to McLeodUSA on Monday, January 8 for the release of the remainder of KBHC's numbers. If McLeodUSA had acted on this request and released the numbers, the request of the Substance Abuse and Mental Health Services Administration ("SAMHSA") now pending before the FCC would become moot and would be subject to dismissal as such. However, McLeod refused the request because it said it has been asked by the FCC to maintain the status quo pending FCC action in this matter. KBHC is unaware of any such FCC request and does not understand the basis or scope of any such Commission inquiry.

The SAMHSA request to the FCC was based on an alleged "emergency" created by Patriot's statements that it would terminate service on January 9, 2007 unless a clear

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statement as to the control of the numbers was obtained. In fact, there was never any doubt as to the proper "subscriber of record" to the numbers, as the submissions to the FCC have subsequently made clear. Not one filing has offered any suggestion that KBHC was not the "subscriber" as of March 23, 2006, when it moved the numbers it had operated since 1998 to the McLeodUSA Resp Org. Similarly, no filing has offered any explanation of how KBHC could have properly and legally lost that "subscriber" status somehow thereafter. To the contrary, both McLeod and Patriot have offered no countervailing argument and have indicated they are willing to release the numbers to KBHC; in fact, they have actually done so for all but five of the numbers.

However, in response to the confusion initially alleged by Patriot, SAMHSA asked the FCC to "clarify" the situation by arbitrarily ending KBHC's eight-year status as "subscriber of record" and handing five of the most important numbers to SAMHSA. *See* Letter from Eric B. Broderick, Acting Deputy Administrator, Assistant Surgeon General, to Kevin Martin, Chairman of FCC (Dec. 12, 2006). As previously noted, SAMHSA made this request privately, and accompanied by a further request that the action be taken without notice or comment to KBHC. However, the Patriot and McLeodUSA statements on the record to the Commission have removed the threat of termination upon which the SAMHSA request was premised, making grant of the SAMHSA request a legal impossibility on the record now before the Commission. In light of this fact, KBHC believes that the proper FCC action now is to inform Patriot and McLeod that they should release KBHC's toll-free numbers and then dismiss the SAMHSA request as moot.

It may be that the new inquiry arises because SAMHSA has argued to the Commission that KBHC's numbers should be stripped from KBHC and given to SAMHSA even without an immediate threat of termination based on SAMHSA's allegations that KBHC's finances might constitute a separate threat to the continuation of the 800-SUICIDE numbers. To the extent this is the case, KBHC notes several important points for the record. First, the record before the FCC contains no factual evidence about the state of KBHC's finances upon which the Commission could make a finding justifying forcibly transferring KBHC's numbers to SAMHSA. In fact, KBHC has stated that it will continue operation of the numbers whether or not SAMHSA funds them in the future, and there is no factual basis for refutation of this in the record. Thus, before any such action could lawfully be taken based on factual conclusions about KBHC's finances, a hearing would have to be held.¹

¹ In its Opposition to KBHC's Petition for Cease and Desist and for Sanctions, filed January 3, 2007, Patriot attaches a Complaint it has filed against KBHC in California state court. This lawsuit first became known to KBHC when it was served on December 22, 2006 and the date for filing responses and counterclaims has not yet passed. Obviously, mere allegations in a complaint are not factually cognizable and, in any event, for FCC purposes the lawsuit is irrelevant.

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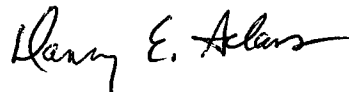
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Second, in any event, KBHC's finances are not relevant to the continuation of the operation of 800-SUICIDE. SAMHSA does not need to be the "subscriber of record" in order for it to ensure financial viability for the operation of the number. Indeed, SAMHSA provided financing for the number for many years, and continuously since August 26, 2006. While SAMHSA might *prefer* to be the subscriber of record, there is no legal or factual basis (in the record or otherwise) to support the idea that such a preference creates a legal basis for transferring numbers from a non-governmental organization to a government agency (or for any other purpose). KBHC is aware of scores of toll-free support lines (such as the Domestic Violence Hotline and the Poison Control Hotline) which today are operated by private organizations like KBHC but funded by federal agencies. For example, SAMHSA today funds the number 800-273-TALK but is not the "subscriber" to that number. Any claim by SAMHSA that it must be the "subscriber" to fund 800-SUICIDE obviously is inaccurate and unsupported in the record. Further, any finding by the FCC that toll-free numbers may be arbitrarily transferred as SAMHSA asks would create a precedent that would jeopardize all private organizations working with federal agencies, not to mention toll-free number users generally. The Commission would need to create a Bureau of Number Reassignments simply to handle all the requests for forcible transfers if it took on the role of arbiter of highest and best use for toll-free numbers, as SAMHSA requests.²

The record before the FCC demonstrates that there is no "emergency" threatening termination of the operation of 800-SUICIDE. The threat of termination has been removed by Patriot and the threat of financial inability on the part of KBHC is denied by KBHC, is unsupported by record evidence, and is not relevant to the continued operation of the number. In light of these facts, the Commission should promptly dismiss the SAMHSA request as moot and direct Patriot and McLeod to release KBHC's toll-free numbers to KBHC. The record compiled herein will support nothing else.

Sincerely,



Danny E. Adams

Counsel to Kristin Brooks Hope Center

²

Since KBHC owns the trademark to 800-SUICIDE, and the FCC is not empowered to transfer this trademark along with the number itself, it is unclear how SAMHSA would lawfully publicize the number even if it were to become the "subscriber of record."

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cc: Heather Hendrickson
Anne Stevens
Renée Crittendon
Michelle Carey
Jessica Rosenworcel
Ian Dillner
John W. Hunter
Scott Bergmann

RESPONSIBLE ORGANIZATION DESIGNATION AND AGREEMENT AGENCY

I HEREBY DESIGNATE MICKTEL CORPORATION (MJC01) AS RESPONSIBLE ("RESPORG") FOR THE FOLLOWING TOLL FREE SERVICE TELEPHONE NUMBERS. I FURTHER DESIGNATE MICKTEL CORPORATION (MJC01) TO ACT AS MY AGENT TO TRANSFER "RESPORG" FUNCTIONS TO MICKTEL CORPORATION (MJC01). THESE DESIGNATIONS SUPERSEDE ALL PRIOR "RESPORG" DESIGNATED PERTAINING TO THESE TOLL FREE SERVICE NUMBERS.

COMPANY BILLING NAME: Kristin Brooks Hope Center

COMPANY BILLING ADDRESS: PO Box 15293 Alexandria VA 22315-1293

COMPANY CONTACT: H. Reese Butler

PHONE: 202-536-3200

FAX: 202-536-3206

AUTHORIZED
BY (Signature):

Date: 01/04/07

PRINT NAME: H. Reese Butler II

NUMBER(S)

800-784-2433

888-784-2433

877-784-2432

800-827-7571

800-442-4673

OLD RESPONSIBLE ORGANIZATION: ACC02

NEW RESPONSIBLE ORGANIZATION: MJC01

MICKTEL CORPORATION: RICH JONES - PHONE: 800-433-2746 x 102

FAX: 858-565-4455

EMAIL: rjones@800ideas.com

ADDRESS: 8305 VICKERS ST. #206, SAN DIEGO, CA 92111

The following agreement to transfer KBHC's toll free numbers was extracted from the filing of WILEY REIN & FIELDING LLP brief with the FCC on behalf of Patriot Communications on January 3rd, 2007. The title of the brief is: **Opposition of Patriot Communications LLC to Kristin Brooks Hope Center's Petition for Cease and Desist Order and For Sanctions**

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"Particularly in light of the larger public interests at stake, however, and without waiver of Patriot's position that, at all relevant times, it has acted responsibly and in accordance with law, in the circumstances presented **Patriot does not oppose** the implementation of a properly framed KBHC request for a change in either the assigned Resp Org or the identity of the designated subscriber of record for the Toll-Free Telephone Numbers."

In addition this is the 9th attempt to move our lines of which at least two outstanding requests for a change in Resporg for some or all of these toll free numbers exist. These outstanding requests exceed the two day maximum allowed to McLeod to honor the request.

The following agreement to transfer KBHC's toll free numbers was extracted from the filing of *Bingham McCutchen LLP* brief with the FCC on behalf of McLeodUSA on January 3rd, 2007. The title of the brief is: **Opposition of McLeodUSA Incorporated to Petition for Cease and Desist Order and For Sanctions**

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"Accordingly, without waiving McLeodUSA's position that it has at all times acted in good faith and in compliance with its Resp Org obligations, McLeodUSA will review the Resp Org transfer requests submitted by KBHC and, to the extent they are properly submitted, will port the numbers as requested by KBHC within two days..."